

107TH CONGRESS
2D SESSION

S. 2805

To amend title 23, United States Code, to provide for criminal and civil liability for permitting an intoxicated arrestee to operate a motor vehicle.

IN THE SENATE OF THE UNITED STATES

JULY 26, 2002

Mr. CORZINE (for himself and Mr. TORRICELLI) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend title 23, United States Code, to provide for criminal and civil liability for permitting an intoxicated arrestee to operate a motor vehicle.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “John’s Law of 2002”.

5 **SEC. 2. LIABILITY FOR PERMITTING AN INTOXICATED AR-**

6 **RESTEE TO OPERATE A MOTOR VEHICLE.**

7 (a) IN GENERAL.—Subchapter I of chapter 1 of title
8 23, United States Code, is amended by adding at the end
9 the following:

1 **“§ 165. Liability for permitting an intoxicated ar-**
 2 **restee to operate a motor vehicle**

3 “(a) DEFINITION OF MOTOR VEHICLE.—In this sec-
 4 tion, the term ‘motor vehicle’ means a vehicle driven or
 5 drawn by mechanical power and manufactured primarily
 6 for use on public highways, but does not include a vehicle
 7 operated only on a rail.

8 “(b) WITHHOLDING OF APPORTIONMENTS FOR NON-
 9 COMPLIANCE.—

10 “(1) FISCAL YEAR 2005.—The Secretary shall
 11 withhold 5 percent of the amount required to be ap-
 12 portioned to any State under each of paragraphs
 13 (1), (3), and (4) of section 104(b) on October 1,
 14 2004, if the State does not meet the requirements
 15 of paragraph (3) on that date.

16 “(2) SUBSEQUENT FISCAL YEARS.—The Sec-
 17 retary shall withhold 10 percent of the amount re-
 18 quired to be apportioned to any State under each of
 19 paragraphs (1), (3), and (4) of section 104(b) on
 20 October 1, 2005, and on October 1 of each fiscal
 21 year thereafter, if the State does not meet the re-
 22 quirements of paragraph (3) on that date.

23 “(3) REQUIREMENTS.—A State meets the re-
 24 quirements of this paragraph if the State has en-
 25 acted and is enforcing a law that is substantially as
 26 follows:

1 “(A) WRITTEN STATEMENT.—If a person
2 is summoned by or on behalf of a person who
3 has been arrested for public intoxication in
4 order to transport or accompany the arrestee
5 from the premises of a law enforcement agency,
6 the law enforcement agency shall provide that
7 person with a written statement advising him of
8 his potential criminal and civil liability for per-
9 mitting or facilitating the arrestee’s operation
10 of a motor vehicle while the arrestee remains
11 intoxicated. The person to whom the statement
12 is issued shall acknowledge, in writing, receipt
13 of the statement, or the law enforcement agency
14 shall record the fact that the written statement
15 was provided, but the person refused to sign an
16 acknowledgment. The State shall establish the
17 content and form of the written statement and
18 acknowledgment to be used by law enforcement
19 agencies throughout the State and may issue
20 directives to ensure the uniform implementation
21 of this subparagraph. Nothing in this subpara-
22 graph shall impose any obligation on a physi-
23 cian or other health care provider involved in
24 the treatment or evaluation of the arrestee.

1 “(B) IMPOUNDMENT OF VEHICLE OPER-
2 ATED BY ARRESTEE; CONDITIONS OF RELEASE;
3 FEE FOR TOWING, STORAGE.—

4 “(i) If a person has been arrested for
5 public intoxication, the arresting law en-
6 forcement agency shall impound the vehicle
7 that the person was operating at the time
8 of arrest.

9 “(ii) A vehicle impounded pursuant to
10 this subparagraph shall be impounded for
11 a period of 12 hours after the time of ar-
12 rest or until such later time as the arrestee
13 claiming the vehicle meets the conditions
14 for release in clause (iv).

15 “(iii) A vehicle impounded pursuant
16 to this subparagraph may be released to a
17 person other than the arrestee prior to the
18 end of the impoundment period only if—

19 “(I) the vehicle is not owned or
20 leased by the person under arrest and
21 the person who owns or leases the ve-
22 hicle claims the vehicle and meets the
23 conditions for release in clause (iv); or

24 “(II) the vehicle is owned or
25 leased by the arrestee, the arrestee

1 gives permission to another person,
2 who has acknowledged in writing re-
3 ceipt of the statement to operate the
4 vehicle and the conditions for release
5 in clause (iv).

6 “(iv) A vehicle impounded pursuant to
7 this subparagraph shall not be released un-
8 less the person claiming the vehicle—

9 “(I) presents a valid operator’s
10 license, proof of ownership or lawful
11 authority to operate the vehicle, and
12 proof of valid motor vehicle insurance
13 for that vehicle;

14 “(II) is able to operate the vehi-
15 cle in a safe manner and would not be
16 in violation driving while intoxicated
17 laws; and

18 “(III) meets any other conditions
19 for release established by the law en-
20 forcement agency.

21 “(v) A law enforcement agency im-
22 pounding a vehicle pursuant to this sub-
23 paragraph is authorized to charge a rea-
24 sonable fee for towing and storage of the
25 vehicle. The law enforcement agency is fur-

1 ther authorized to retain custody of the ve-
2 hicle until that fee is paid.

3 “(c) PERIOD OF AVAILABILITY; EFFECT OF COMPLI-
4 ANCE AND NONCOMPLIANCE.—

5 “(1) PERIOD OF AVAILABILITY OF WITHHELD
6 FUNDS.—Any funds withheld under subsection (b)
7 from apportionment to any State shall remain avail-
8 able until the end of the fourth fiscal year following
9 the fiscal year for which the funds are authorized to
10 be appropriated.

11 “(2) APPORTIONMENT OF WITHHELD FUNDS
12 AFTER COMPLIANCE.—If, before the last day of the
13 period for which funds withheld under subsection (b)
14 from apportionment are to remain available for ap-
15 portionment to a State under paragraph (1), the
16 State meets the requirements of subsection (a)(3),
17 the Secretary shall, on the first day on which the
18 State meets the requirements, apportion to the State
19 the funds withheld under subsection (b) that remain
20 available for apportionment to the State.

21 “(3) PERIOD OF AVAILABILITY OF SUBSE-
22 QUENTLY APPORTIONED FUNDS.—

23 “(A) IN GENERAL.—Any funds appor-
24 tioned under paragraph (2) shall remain avail-
25 able for expenditure until the end of the third

1 fiscal year following the fiscal year in which the
2 funds are so apportioned.

3 “(B) TREATMENT OF CERTAIN FUNDS.—
4 Any funds apportioned under paragraph (2)
5 that are not obligated at the end of the period
6 referred to in subparagraph (A) shall be allo-
7 cated equally among the States that meet the
8 requirements of subsection (a)(3).

9 “(4) EFFECT OF NONCOMPLIANCE.—If, at the
10 end of the period for which funds withheld under
11 subsection (b) from apportionment are available for
12 apportionment to a State under paragraph (1), the
13 State does not meet the requirements of subsection
14 (a)(3), the funds shall be allocated equally among
15 the States that meet the requirements of subsection
16 (a)(3).”.

17 (b) CONFORMING AMENDMENT.—The analysis for
18 subchapter I of chapter 1 of title 23, United States Code,
19 is amended by adding at the end the following:

“165. Liability for permitting an intoxicated arrestee to operate a motor vehicle.”.

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